

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RACHEL A. BRIAN,

Plaintiff,

v.

WINDMILL RIDGE, LLC,

Defendant.

Case No. 3:13-cv-00197-MMD-WGC

ORDER

On October 20, 2013, plaintiff was directed to file a complaint within 30 days (dkt. no. 4). Because she had not done so by May 19, 2015, this Court issued an order providing Plaintiff an additional fifteen (15) days to file an amended complaint. (Dkt. no. 6.) The fifteen-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.¹

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*

¹In fact, the Court's last two orders were returned as undeliverable. It appears that Plaintiff has failed to file her updated mailing address.

1 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply
2 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal
3 for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey
5 a court order, or failure to comply with local rules, the court must consider several
6 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
7 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
8 favoring disposition of cases on their merits; and (5) the availability of less drastic
9 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833
10 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 In the instant case, the Court finds that the first two factors, the public's interest in
12 expeditiously resolving this litigation and the Court's interest in managing the docket,
13 weigh in favor of dismissal. The third factor, risk of prejudice to defendant, also weighs in
14 favor of dismissal, since a presumption of injury arises from the occurrence of
15 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
16 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor — public
17 policy favoring disposition of cases on their merits — is greatly outweighed by the factors
18 in favor of dismissal discussed herein. Finally, a court's warning to a party that his failure
19 to obey the court's order will result in dismissal satisfies the "consideration of
20 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
21 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an amended
22 complaint within fifteen (15) days expressly stated: "Failure to file an amended complaint
23 with thirty (30) days may result in dismissal of this action with prejudice." (Dkt. no. 6.)
24 Thus, Plaintiff had adequate warning that dismissal would result from her noncompliance
25 with the Court's orders to file an amended complaint.

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1 It is therefore ordered that this action is dismissed with prejudice based on
2 Plaintiff's failure to file an amended complaint in compliance with this Court's orders.

3 DATED THIS 4th day of June 2015.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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